## UNITED STATES DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION WASHINGTON, DC

Served: July 22, 1993

FAA Order No. 93-23

In the Matter of:

Docket No. CP92WP0301

SHANE THOMAS ALLEN

## ORDER DISMISSING APPEAL

On February 5, 1993, Respondent Shane Thomas Allen filed a notice of appeal from the oral initial decision of Chief Administrative Law Judge John J. Mathias issued on January 29, 1993. Respondent was required to perfect his appeal by filing an appeal brief within 50 days of the law judge's oral initial decision, pursuant to 14 C.F.R. §13.233(c). Respondent's appeal brief was due on or before March 22, 1993. Respondent filed his appeal brief on March 29, 1993. 1

By motion dated May 10, 1993, Complainant requests dismissal of Respondent's appeal due to Respondent's untimely appeal brief. Complainant served Respondent with a copy of its Motion to Dismiss Respondent's Appeal. Respondent has not filed a response.

An untimely appeal brief will be excused only for good cause. See In the Matter of Esau, FAA Order No. 91-24 (June 21, 1991); cf. 14 C.F.R. § 13.233(c)(2)(the Administrator may grant a motion for an extension of time to perfect an appeal -- when the parties do not agree to the extension -- if good cause is shown in the motion).

<sup>1/</sup> Respondent's appeal brief was filed with Complainant only. Pursuant to 14 C.F.R. § 13.233, appeal briefs are to be filed with the FAA decisionmaker at the address of the Appellate Docket Clerk, 800 Independence Avenue, S.W., Room 924A, Washington DC 20591. A copy of the brief must be served on each party.

Respondent has not explained, and the record does not show, why his appeal brief was filed one week after it was due. Respondent's appeal is subject to dismissal under 14 C.F.R. § 13.233(d)(2). Complainant's Motion to Dismiss Respondent's Appeal is granted.

THEREFORE, IT IS ORDERED THAT:

Respondent's appeal is hereby dismissed.

JOSEPH DEL BALZO Acting Administrator Federal Aviation Administration

JAMES S. DILLMAN\*
Assistant Chief Counsel

Issued this Alday of July, 1993.

<sup>\*</sup> Issued under authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation by Memorandum dated October 27, 1992, under 49 U.S.C. § 322(b) and 14 C.F.R. § 13.202. See 57 Fed. Reg. 58,280 (1992).